UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,006	07/25/2003	Brian Hernacki	SYMAP027	3957

21912 7590 01/04/2007

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

EXAMINER	
CALLAHAN, PAUL E	
ART UNIT	PAPER NUMBER
2137	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/628,006	HERNACKI	
	Examiner	Art Unit	
	Paul Callahan	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,10-17 and 19-22* is/are rejected.

7)☒ Claim(s) *8,9 and 18* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 July 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-22 are pending in the instant application and have been examined.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because figures 1, 2, and 6 are entirely hand drawn (informal) and noncompliant. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites a limitation directed towards the use of the open source Boost Library as the program code utilized in the comparison step. However the applicant has not specified what source code is available in the Boost Library for this purpose.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) *the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

6. Claims 1-7, 10-17, and 20-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Gupta et al., US 20030004688 A1.

As for Claim 1, Gupta teaches a method for identifying network traffic [0002] comprising: receiving pattern matching data [0043]; comparing the pattern matching data with a pattern [0050], [0084]; and determining whether the pattern matching data matches the pattern [0087].

As for claim 2, Gupta teaches a method for identifying network traffic as recited in Claim 1, wherein the pattern matching data includes application data [0076], [0081], [0083], [0095].

As for claim 3, Gupta teaches a method for identifying network traffic as recited in Claim 1, in the event that the pattern matching data matches the pattern, further including determining a property associated with the network traffic [0063], [0064].

As for claim 4, Gupta teaches a method for identifying network traffic as recited in Claim 1, in the event that the pattern matching data matches the pattern, further including determining a property associated with the network traffic; wherein the property is an application protocol [0063], [0064].

As for claim 5, Gupta teaches a method for identifying network traffic as recited in Claim 1, in the event that the data matches the pattern, further including determining a property associated with the data and assigning a score for the property [0055], [0059].

As for claim 6, Gupta teaches a method for identifying network traffic as recited in Claim 1, in the event that the data matches the pattern, further including determining a property associated with the data; and applying a policy based on the property [0055], [0059], [0061].

As for claim 7, Gupta teaches a method for identifying network traffic as recited in Claim 1, further comprising assigning a score to a match if the pattern matching data matches the pattern [0055].

As for claim 10, Gupta teaches a method for identifying network traffic as recited in Claim 1, wherein the pattern matching data includes a string selected from a packet [0084], [0085], [0086].

As for claim 11, Gupta teaches a method for identifying network traffic as recited in Claim 1, wherein pattern matching data includes concatenated application data of a plurality of packets [0068], [0104].

As for claim 12, Gupta teaches a method for identifying network traffic as recited in Claim 1, wherein the pattern includes a regular expression [0076], [0081], [0083], [0095].

As for claim 13, Gupta teaches a method for identifying network traffic as recited in Claim 1, wherein the pattern includes application protocol information [0063], [0064].

As for claim 14, Gupta teaches a method for identifying network traffic as recited in Claim 1, wherein the pattern includes commonly used port information [0076], [0107].

As for claim 15, Gupta teaches a method for identifying network traffic as recited in Claim 1, in the event the data does not match the pattern, further comprising returning a failure indicator [0104: Alert].

As for claim 16, Gupta teaches a method for identifying network traffic as recited in Claim 1, wherein determining whether the pattern matching data matches the pattern occurs at the beginning of session [0103: Packet is cached and analyzed upon receipt].

As for claim 17, Gupta teaches a method for identifying network traffic as recited in Claim 1, wherein comparing the pattern matching data with a pattern is performed for each received data [0103].

Claim 20 is directed towards a system that carries out the method steps of claim 1. Claim 20 recites substantially the same limitations as claim 1 and therefore is rejected on the same basis as that claim.

Claim 21 is directed towards a computer program embodied in a computer-readable medium that causes a processor to undertake the method steps of claim 1. Claim 21 recites substantially the same limitations as claim 1 and therefore is rejected on the same basis as that claim.

Claim 22 is virtually identical to claim 1, Gupta teaches the additional limitation found in claim 22 and not found in claim 1 of: wherein the pattern matching data includes application data [0063], [0064].

Allowable Subject Matter

7. Claims 8, 9, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: The closest prior art in the field, Gupta, does not teach the combination of features found in claims 8, 9, and 18, particularly including:

As for claim 8, comparing the pattern matching data with a second pattern and assigning a second score to a second match if the pattern matching data matches a second pattern. Claim 9 is dependent on claim 8 and is therefore allowable on that basis.

As for claim 18, comparing a second pattern matching data with a second pattern, wherein comparing the second pattern matching data occurs substantially concurrently with the comparing of pattern matching data with the pattern.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following US Patent documents teach systems of Network Intrusion Detection pertinent to the applicant's disclosure:

Gleichauf et al.	6,499,107
Carter et al.	US 20030051026 A1
Ricciulli	US 20040174820

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Emmanuel Moise, can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is: (571) 273-8300.

PEC
12-22-06

Paul Callahan

EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER